IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2788 OF 2004

IN

SUIT NO.267 OF 1983

Millars India Ltd. ... Plaintiffs.

vs.

1. Bank of India & others. ... Defendants.

None for Plaintiffs.

Mr.M.S.Rane i/b. M/s.Purnand & Co., for Defendant no.5 in support.

CORAM: D.K.DESHMUKH,J.

DATED: 21st July,2005

P.C.:-

1. This is a notice of motion taken out by defendant no.5. The learned Counsel for defendant no.5 states that the plaintiffs have been served with the notice of motion. He undertakes to file affidavit of service within one week from today. None appears for plaintiffs. The plaintiffs have not filed any reply. In the absence of any reply accepting the averments in the affidavit filed in support of notice of motion at face value, the notice of motion is granted in terms of prayer clause (a).

However, considering that the delay is of 21 years, the defendant no.5 is directed to pay as and by way of cost of this Notice of Motion, amount of Rs.10,000/- to the plaintiffs. In case the defendant no.5 pays the cost of Rs.10,000/- to the plaintiffs and produces the receipt before the Prothonotary and Senior Master of this Court within a period of four weeks from today, the written statement filed by defendant no.5 be taken on record, otherwise this notice of motion shall be treated as rejected.